

The rolling stock exemption is available to interstate carriers for hire for use as rolling stock moving in interstate commerce or lessors under leases of one year or longer executed or in effect at the time of purchase to interstate carriers for hire for use as rolling stock moving in interstate commerce. The rolling stock must be moving in interstate commerce on a regular and frequent basis. Please see Section 130.340 (This is a GIL).

March 19, 1999

Dear Xxxxx:

This letter is in response to your letter dated February 17, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

I am an administrative assistant of a small container sales company. We have one truck to transport said containers. Can you please send me any information on taxes that would apply to trucking services? If you need further information on our company please call me @ ####. Thanks in advance!

The Retailers' Occupation Tax Act imposes a tax on persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption and is measured by the seller's gross receipts from sales made in the course of such business. See the enclosed copy of 86 Ill. Adm. Code 130.101. The term "Gross receipts" means all of the consideration actually received by the seller, except traded-in tangible personal property. See the enclosed copy of 86 Ill. Adm. Code 130.401.

Concerning the exemptions available for the trucking industry, Illinois administers a rolling stock exemption that is described in the enclosed copy of 86 Ill. Adm. Code 130.340. As this section indicates, the exemption is available to interstate carriers for hire for use as rolling stock moving in interstate commerce or lessors under leases of one year or longer executed or in effect at the time of purchase to interstate carriers for hire for use as rolling stock moving in interstate commerce. The rolling stock must be moving in interstate commerce on a regular and frequent basis. Please see Section 130.340 for the documentation requirements for this exemption. If companies use trucks to transport their own inventory, the rolling stock exemption is not available.

As a technical proposition, handling charges represent a retailer's cost of doing business, and are consequently always included in gross charges subject to tax. See, 86 Ill. Adm. Code 130.410. However, such charges are often stated in combination with shipping charges. In this case, charges designated as "shipping and handling," as well as delivery or transportation charges in general, are not taxable if it can be shown that they are both separately contracted for and that

such charges are actually reflective of the costs of shipping. To the extent that shipping and handling charges exceed the costs of shipping, the charges are subject to tax. As indicated above, charges termed "delivery" or "transportation" charges follow the same principle.

The best evidence that shipping and handling or delivery charges have been contracted for separately by purchasers and retailers are separate contracts for shipping and handling or delivery. However, documentation that demonstrates that purchasers had the option of taking delivery of the property, at the sellers' location for the agreed purchase price, plus an ascertained or ascertainable delivery charge, will suffice. If retailers charge customers shipping and handling or delivery charges that exceed the retailers' cost of providing the transportation or delivery, the excess amount is subject to tax.

Mail order delivery charges are deemed to be agreed upon separately from the selling price of the tangible personal property being sold so long as the mail order form requires a separate charge for delivery and so long as the charges designated as transportation or delivery or shipping and handling are actually reflective of the costs of such shipping, transportation or delivery. See subsection (d) of Section 130.415. If the retailer charges a customer shipping and handling or delivery charges that exceed the retailer's cost of providing the transportation or delivery, the excess amount is subject to tax.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis  
Associate Counsel

MAJ:msk  
Enc.